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2005 - 2006 LEGISLATURE

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## 2005 SENATE BILL 284

August 10, 2005 - Introduced by Senators ROESSLER, OLSEN and A. LASEE, cosponsored by Representatives KESTELL, TOWNSEND, OTT, JESKEWITZ and MUSSER. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

Regenerate

1 AN ACT *to repeal* 48.981 (1) (fm); *to renumber and amend* 48.21 (1) (b), 48.981  
2 (3) (a) 2. and 48.981 (3) (c) 1.; *to amend* 48.02 (15), 48.21 (1) (a), 48.425 (1) (f),  
3 48.425 (1) (g), 48.427 (3m) (intro.), 48.427 (3m) (a) 1., 48.428 (2) (a), 48.428 (2)  
4 (b), 48.43 (5) (c), 48.57 (3m) (a) 2., 48.57 (3n) (a) 2., 48.62 (2), 48.75 (1g) (a) 1.,  
5 48.977 (1), 48.981 (3) (c) 4. and 938.02 (15); and *to create* 48.21 (1) (b) 1., 48.427  
6 (3m) (am), 48.981 (3) (a) 2. a., 48.981 (3) (a) 2. b., 48.981 (3) (a) 2. c., 48.981 (3)  
7 (a) 2. d. and 48.981 (3) (a) 2d. of the statutes; **relating to:** the investigation of  
8 child abuse ~~on~~ *neglect* reports in which a person who is not a caregiver of the  
9 child is suspected of the abuse ~~on~~ *neglect* of the child; defining the persons who  
10 are considered to be relatives of a child or juvenile for purposes of the Children's  
11 Code and the Juvenile Justice Code; extending the time for which a child may  
12 be held in custody when additional time is required to determine whether the  
13 filing of a petition initiating proceedings under the Children's Code is  
14 necessary; and the transfer of guardianship and custody of a child to a county

*the status of a child's relatives following a termination of  
parental rights;*

*the provision of certain information to a relative of a child when the child  
is placed in the home of the relative;*

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1 department of human services or social services in a county other than  
2 Milwaukee County for the placement of a child for adoption in the home of the  
3 child's foster or treatment foster parents.

*substitute amendment*

***Analysis by the Legislative Reference Bureau***

\* This bill makes various changes to the Children's Code and the Juvenile Justice  
\* Code relating to the investigation of child abuse ~~or neglect~~ reports in which a person  
\* who is not a caregiver of the child is suspected of the abuse ~~or neglect~~ of the child;  
defining the persons who are considered to be relatives of a child or juvenile for  
purposes of the Children's Code and the Juvenile Justice Code; extending the time  
for which a child may be held in custody when additional time is required to  
determine whether the filing of a petition initiating proceedings under the Children's  
Code is necessary; and the transfer of guardianship and custody of a child to a county  
department of human services or social services (county department) in a county  
other than Milwaukee County for placement of the child for adoption in the home of  
the child's foster or treatment foster parents. The changes are as follows:

***Child abuse investigations of noncaregivers***

Under current law, certain persons having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur must report that suspected or threatened abuse or neglect to the county department of human services or social services or, in Milwaukee County, to the Department of Health and Family Services (DHFS) or a child welfare agency under contract with DHFS (collectively "agency") or to the sheriff or police department. Current law also permits any other person having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur to make such a report.

Current law requires the sheriff or police department to refer to an agency all cases of child abuse or neglect reported to it and the agency, within 24 hours after receiving a report, to initiate a diligent investigation to determine if the child is in need of protection or services. Current law also specifies certain procedures that an agency must follow in investigating cases in which there is reason to suspect that the child was abused or neglected, or was threatened with abuse or neglect, by a caregiver, which is defined under current law as a relative, guardian, or legal custodian of the child; a person who resides or has resided regularly or intermittently in the same dwelling as the child; an employee of a residential facility or a residential care center for children and youth in which the child was or is placed; a person who provides or has provided care for the child in or outside of the child's home; or any other person who exercises or has exercised temporary or permanent control or supervision over the child.

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*Substitute amendment*

This ~~bill~~ permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse ~~or neglect~~, or of the threatened abuse ~~or neglect~~, of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services. In cases in which a caregiver is suspected of the abuse ~~or neglect~~, or of the threatened abuse ~~or neglect~~, of a child, in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse ~~or neglect~~ of a child, or in which it cannot be determined who abused or neglected a child, the sheriff or police department must refer the case to an agency and the agency must investigate the case as under current law.

STET

**Definition of "relative" in Children's Code and Juvenile Justice Code**

Currently, for purposes of the Children's Code and the Juvenile Justice Code, a "relative" of a child or juvenile is defined as a parent, grandparent, greatgrandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt, whether the relationship is by blood, marriage, or adoption. For the purpose of determining eligibility to receive kinship care or long-term kinship care payments for providing care and maintenance for a child, for the purpose of determining eligibility to be appointed as the guardian of a child in need of protection or services, and for the purpose of exempting a relative who is providing care and maintenance for a child from having to obtain a foster home license, the definition is expanded to include a stepbrother or stepsister, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The definition is also expanded for purposes of investigating any suspected or threatened abuse or neglect of a child by a caregiver of the child to include a second cousin, stepgrandparent, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, stepuncle, or steppaunt.

*rather than for purposes of day care licensing**Substitute amendment*

This ~~bill~~ expands the definitions of a "relative" of a child or juvenile for purposes of the Children's Code and the Juvenile Justice Code to include, in addition to the relatives currently listed in those definitions, a stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, second cousin, stepuncle, steppaunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The ~~bill~~ also conforms the various other definitions of "relative" found in the Children's Code to the expanded definition, except that under the ~~bill~~ the definitions of "kinship care relative," "long-term kinship care relative," and "relative," for purposes of eligibility to be appointed as the guardian of a child in need of protection or services, do not include a parent of the child.

*Substitute amendment***Holding a child in custody**

Under current law, if a child who has been taken into custody under the Children's Code is not released, a judge of the court assigned to exercise jurisdiction under the Children's Code (juvenile court) or a circuit court commissioner must conduct a hearing within 48 hours of the time the decision to hold the child in custody was made, exclusive of Saturdays, Sundays, and legal holidays, and a petition initiating proceedings under the Children's Code must be filed by the time of the

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hearing. If a hearing is not held within the time required or if a petition is not filed by the time of the hearing, the child must be released, except that if a hearing is held, but no petition is filed, the child may be held in custody for an additional 72 hours, exclusive of Saturdays, Sundays, and legal holidays, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that the child is an imminent danger to himself or herself or others or that the child's parent, guardian, or legal custodian or another responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care for the child.

This bill permits a child to be held in custody for an additional 72 hours, when no petition is filed by the time of the custody hearing, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that additional time is required to determine whether the filing of a petition initiating proceedings under the Children's Code is necessary.

***Placement of a child for adoption***

Under current law, if the parental rights of both parents or of the only living parent of a child are terminated, the juvenile court must do one of the following:

1. Transfer guardianship and custody of the child pending adoptive placement to a county department that is authorized to accept guardianship of a child, for purposes of placing a child for adoption, to a child welfare agency that is licensed to accept guardianship of a child and to place the child for adoption, to DHFS, to a relative with whom the child resides, or to an individual who has been appointed guardian of the child by a court of a foreign jurisdiction.

2. Transfer guardianship of the child to a county department, child welfare agency, or DHFS and custody of the child to a relative or to an individual in whose home the child has resided for at least 12 consecutive months immediately prior to the termination of parental rights (TPR).

This bill permits the juvenile court, following a TPR, to transfer guardianship and custody of a child to a county department of a county other than Milwaukee County for placement of the child for adoption by the child's foster parent or treatment foster parent, only if the county department has agreed to accept guardianship and custody of the child and the foster parent or treatment foster parent has agreed to adopt the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 48.02 (15) of the statutes is amended to read:
- 2           48.02 (15) "Relative" means a parent, grandparent, greatgrandparent,
- 3           stepparent, brother, sister, stepbrother, stepsister, half brother, half sister,

Substitute  
amendment

Insert  
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## SECTION 1

1 brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, or  
2 aunt. This relationship shall be, stepuncle, stepaunt, or any person of a preceding  
3 generation as denoted by the prefix of grand, great, or great-great, whether by blood,  
4 marriage, or legal adoption, or the spouse of any person named in this subsection,  
5 even if the marriage is terminated by death or divorce.

6 **SECTION 2.** 48.21 (1) (a) of the statutes is amended to read:

7 48.21 (1) (a) If a child who has been taken into custody is not released under  
8 s. 48.20, a hearing to determine whether the child shall continue to be held in custody  
9 under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or a circuit  
10 court commissioner within 48 hours of the time the decision to hold the child was  
11 made, excluding Saturdays, Sundays, and legal holidays. By the time of the hearing  
12 a petition under s. 48.25 shall be filed, except that no petition need be filed where a  
13 when the child is taken into custody under s. 48.19 (1) (b) or (d) 2. or 7. or where when  
14 the child is a runaway from another state, in which case a written statement of the  
15 reasons for holding -a- the child in custody shall be substituted if the petition is not  
16 filed. If no hearing has been held within 48 hours, excluding Saturdays, Sundays,  
17 and legal holidays, or if no petition or statement has been filed at the time of the  
18 hearing, the child shall be released except as provided in par. (b) pars. (b) and (bm).  
19 A parent not present at the hearing shall be granted a rehearing upon request for  
20 good cause shown.

21 **SECTION 3.** 48.21 (1) (b) of the statutes is renumbered 48.21 (1) (b) (intro.) and  
22 amended to read:

23 48.21 (1) (b) (intro.) If no petition has been filed by the time of the hearing, a  
24 child may be held in custody with approval of the judge or circuit court commissioner  
25 for an additional 72 hours from the time of the hearing, excluding Saturdays,

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## SECTION 3

1 Sundays, and legal holidays, only if, as a result of the facts brought forth at the  
2 hearing, the judge or circuit court commissioner determines that probable cause  
3 exists to believe that any of the following:

4 2. That the child is an imminent danger to himself or herself or to others, ~~that~~.

5 3. That probable cause exists to believe that the parent, guardian, or legal  
6 custodian of the child or other responsible adult is neglecting, refusing, unable, or  
7 unavailable to provide adequate supervision and care ~~or~~.

8 4. That, if the child is an expectant mother who was taken into custody under  
9 s. 48.19 (1) (cm) or (d) 8., that probable cause exists to believe that there is a  
10 substantial risk that if the child expectant mother is not held, the physical health of  
11 the unborn child, and of the child when born, will be seriously affected or endangered  
12 by the child expectant mother's habitual lack of self-control in the use of alcohol  
13 beverages, controlled substances, or controlled substance analogs, exhibited to a  
14 severe degree, and to believe that the child expectant mother is refusing or has  
15 refused to accept any alcohol or other drug abuse services offered to her or is not  
16 making or has not made a good faith effort to participate in any alcohol or other drug  
17 abuse services offered to her. The

18 (bm) An extension under par. (b) may be granted only once for any petition. In  
19 the event of failure to file a petition within the extension period provided for in this  
20 paragraph par. (b), the judge or circuit court commissioner shall order the child's  
21 immediate release from custody.

22 **SECTION 4.** 48.21 (1) (b) 1. of the statutes is created to read:

23 48.21 (1) (b) 1. That additional time is required to determine whether the filing  
24 of a petition initiating proceedings under this chapter is necessary.

25 **SECTION 5.** 48.425 (1) (f) of the statutes is amended to read:

Insert  
6-29

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## SECTION 5

1 48.425 (1) (f) If the report recommends that the parental rights of both of the  
2 child's parents or the child's only living or known parent are to be terminated, the  
3 report shall contain a statement of the likelihood that the child will be adopted. This  
4 statement shall be prepared by an agency designated in s. 48.427 (3m) (a) 1. to 4. or  
5 (am) and include a presentation of the factors which that might prevent adoption,  
6 those which that would facilitate it adoption, and the agency which that would be  
7 responsible for accomplishing the adoption.

as affected by 2005 Wisconsin Act 25,

8 SECTION 6. 48.425 (1) (g) of the statutes is amended to read:

9 48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4. or (am)  
10 determines that it is unlikely that the child will be adopted, or if adoption would not  
11 be in the best interests of the child, the report shall include a plan for placing the child  
12 in a permanent family setting. The plan shall include a recommendation as to the  
13 agency to be named guardian of the child or a recommendation that the person  
14 appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian  
15 of the child.

or a recommendation that a guardian be appointed  
for the child under s. 48.977 (2)

16 SECTION 7. 48.427 (3m) (intro.) of the statutes is amended to read:

17 48.427 (3m) (intro.) If the rights of both parents or of the only living parent are  
18 terminated under sub. (3) and if a guardian has not been appointed under s. 48.977,  
19 the court shall either do one of the following:

20 SECTION 8. 48.427 (3m) (a) 1. of the statutes is amended to read:

21 48.427 (3m) (a) 1. A county department authorized to accept guardianship  
22 under s. 48.57 (1) (e) or (hm).

23 SECTION 9. 48.427 (3m) (am) of the statutes is created to read:

24 48.427 (3m) (am) Transfer guardianship and custody of the child to a county  
25 department authorized to accept guardianship under s. 48.57 (1) (hm) for placement

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1 of the child for adoption by the child's foster parent or treatment foster parent, if the  
2 county department has agreed to accept guardianship and custody of the child and  
3 the foster parent or treatment foster parent has agreed to adopt the child.

4 **SECTION 10.** 48.428 (2) (a) of the statutes is amended to read:

5 48.428 (2) (a) Except as provided in par. (b), when a court places a child in  
6 sustaining care after an order under s. 48.427 (4), the court shall transfer legal  
7 custody of the child to the county department, the department, in a county having  
8 a population of 500,000 or more, or a licensed child welfare agency, transfer  
9 guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am) and  
10 place the child in the home of a licensed foster parent, licensed treatment foster  
11 parent, or kinship care relative with whom the child has resided for 6 months or  
12 longer. Pursuant to such a placement, this licensed foster parent, licensed treatment  
13 foster parent, or kinship care relative shall be a sustaining parent with the powers  
14 and duties specified in sub. (3).

15 **SECTION 11.** 48.428 (2) (b) of the statutes is amended to read:

16 48.428 (2) (b) When a court places a child in sustaining care after an order  
17 under s. 48.427 (4) with a person who has been appointed as the guardian of the child  
18 under s. 48.977 (2), the court may transfer legal custody of the child to the county  
19 department, the department, in a county having a population of 500,000 or more, or  
20 a licensed child welfare agency, transfer guardianship of the child to an agency listed  
21 in s. 48.427 (3m) (a) 1. to 4. or (am) and place the child in the home of a licensed foster  
22 parent, licensed treatment foster parent, or kinship care relative with whom the  
23 child has resided for 6 months or longer. Pursuant to such a placement, that licensed  
24 foster parent, licensed treatment foster parent, or kinship care relative shall be a  
25 sustaining parent with the powers and duties specified in sub. (3). If the court



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1 transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4.  
2 or (am), the court shall terminate the guardianship under s. 48.977.

3 SECTION 12. 48.43 (5) (c) of the statutes is amended to read:

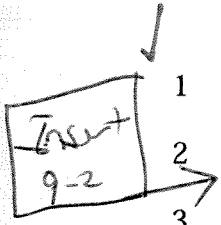
4 48.43 (5) (c) Following the hearing, the court shall make all of the  
5 determinations specified under s. 48.38 (5) (c), except the determinations relating to  
6 the child's parents. The court may amend the order under sub. (1) to transfer the  
7 child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1.  
8 to 4. which or (am) that consents to the transfer, if the court determines that the  
9 transfer is in the child's best interest. If an order is amended, the agency that  
10 prepared the permanency plan shall revise the plan to conform to the order and shall  
11 file a copy of the revised plan with the court. Each plan filed under this paragraph  
12 shall be made a part of the court order.

13 SECTION 13. 48.57 (3m) (a) 2. of the statutes is amended to read:

14 48.57 (3m) (a) 2. "Kinship care relative" means a stepparent, brother, sister,  
15 stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a  
16 preceding generation as denoted by the prefix of grand, great or great-great,  
17 whether by blood, marriage or legal adoption, or the spouse of any person named in  
18 this paragraph, even if the marriage is terminated by death or divorce relative other  
19 than a parent.

20 SECTION 14. 48.57 (3n) (a) 2. of the statutes is amended to read:

21 48.57 (3n) (a) 2. "Long-term kinship care relative" means a stepparent,  
22 brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any  
23 person of a preceding generation as denoted by the prefix of grand, great or  
24 great-great, whether by blood, marriage or legal adoption, or the spouse of any



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## SECTION 14

1 person named in this paragraph, even if the marriage is terminated by death or  
2 divorce relative other than a parent.

3 **SECTION 15.** 48.62 (2) of the statutes is amended to read:

4 48.62 (2) A relative as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a)  
5 or a guardian of a child, who provides care and maintenance for a the child, is not  
6 required to obtain the license specified in this section. The department, county  
7 department, or licensed child welfare agency as provided in s. 48.75 may issue a  
8 license to operate a foster home or a treatment foster home to a relative who has no  
9 duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster  
10 home or treatment foster home for a specific child who is either placed by court order  
11 or who is the subject of a voluntary placement agreement under s. 48.63. The  
12 department, a county department, or a licensed child welfare agency may, at the  
13 request of a guardian appointed under s. 48.977 or 48.978 or ch. 880, license the  
14 guardian's home as a foster home or treatment foster home for the guardian's minor  
15 ward who is living in the home and who is placed in the home by court order.  
16 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978  
17 or ch. 880 who are licensed to operate foster homes or treatment foster homes are  
18 subject to the department's licensing rules.

19 **SECTION 16.** 48.75 (1g) (a) 1. of the statutes is amended to read:

20 48.75 (1g) (a) 1. The person who will be licensed to operate the foster home is  
21 a relative, as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a) 2. a., or a  
22 guardian of the child who will be placed in the foster home.

23 **SECTION 17.** 48.977 (1) of the statutes is amended to read:

24 48.977 (1) DEFINITION. In this section, "relative" means a relative as defined  
25 in s. 48.02 (15) or a person specified in s. 48.57 (3m) (a) 2 other than a parent.

Insert  
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Insert  
10-25

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1           **SECTION 18.** 48.981 (1) (fm) of the statutes is repealed.

2           **SECTION 19.** 48.981 (3) (a) 2. of the statutes is renumbered 48.981 (3) (a) 2.  
3 (intro.) and amended to read:

4           48.981 (3) (a) 2. (intro.) The sheriff or police department shall within 12 hours,  
5 exclusive of Saturdays, Sundays, or legal holidays, refer to the county department  
6 or, in a county having a population of 500,000 or more, the department or a licensed  
7 child welfare agency under contract with the department all of the following types  
8 of cases reported to it. the sheriff or police department:

9           2g. The county department, department, or licensed child welfare agency may  
10 require that a subsequent report of a case referred under subd. 2. or 2d. be made in  
11 writing.

12           **SECTION 20.** 48.981 (3) (a) 2. a. of the statutes is created to read:

13           48.981 (3) (a) 2. a. Cases in which a caregiver is suspected of abuse or neglect  
14 or of threatened abuse or neglect of a child.

15           **SECTION 21.** 48.981 (3) (a) 2. b. of the statutes is created to read:

16           48.981 (3) (a) 2. b. Cases in which a caregiver is suspected of facilitating or  
17 failing to take action to prevent the suspected or threatened abuse or neglect of a  
18 child.

19           **SECTION 22.** 48.981 (3) (a) 2. c. of the statutes is created to read:

20           48.981 (3) (a) 2. c. Cases in which it cannot be determined who abused or  
21 neglected or threatened to abuse or neglect a child.

22           **SECTION 23.** 48.981 (3) (a) 2. d. of the statutes is created to read:

23           48.981 (3) (a) 2. d. Cases in which there is reason to suspect that an unborn  
24 child has been abused or there is reason to believe that an unborn child is at  
25 substantial risk of abuse.

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## SECTION 24

1           **SECTION 24.** 48.981 (3) (a) 2d. of the statutes is created to read:

2           48.981 **(3)** (a) 2d. The sheriff or police department may refer to the county  
3           department or, in a county having a population of 500,000 or more, the department  
4           or a licensed child welfare agency under contract with the department a case  
5           reported to the sheriff or police department in which a person who is not a caregiver  
6           is suspected of abuse ~~or neglect~~ or of threatened abuse ~~or neglect~~ of a child.

7           **SECTION 25.** 48.981 (3) (c) 1. of the statutes is renumbered 48.981 (3) (c) 1. a.  
8           and amended to read:

9           48.981 **(3)** (c) 1. a. ~~Within 24 hours~~ Immediately after receiving a report under  
10          par. (a), the agency shall evaluate the report to determine whether there is reason  
11          to suspect that a caregiver has abused or neglected the child, has threatened the child  
12          with abuse or neglect, or has facilitated or failed to take action to prevent the  
13          suspected or threatened abuse or neglect of the child. If the agency determines that  
14          a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of the  
15          child, determines that a caregiver is suspected of facilitating or failing to take action  
16          to prevent the suspected or threatened abuse or neglect of the child, or cannot  
17          determine who abused or neglected the child, within 24 hours after receiving the  
18          report the agency shall, in accordance with the authority granted to the department  
19          under s. 48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a), initiate a  
20          diligent investigation to determine if the child ~~or unborn child~~ is in need of protection  
21          or services. ~~The~~ If the agency determines that a person who is not a caregiver is  
22          suspected of abuse ~~or neglect~~ or of threatened abuse ~~or neglect~~, the agency may, in  
23          accordance with that authority, initiate a diligent investigation to determine if the  
24          child is in need of protection or services. Within 24 hours after receiving a report  
25          under par. (a) of suspected unborn child abuse, the agency, in accordance with that

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1 authority, shall initiate a diligent investigation to determine if the unborn child is  
2 in need of protection or services. An investigation under this subd. 1. a. shall be  
3 conducted in accordance with standards established by the department for  
4 conducting child abuse and neglect investigations or unborn child abuse  
5 investigations.

6 b. If the investigation is of a report of child abuse or neglect or of threatened  
7 child abuse or neglect by a caregiver specified in sub. (1) (am) 5. to 8. who continues  
8 to have access to the child or a caregiver specified in sub. (1) (am) 1. to 4., or of a report  
9 that does not disclose who is suspected of the child abuse or neglect and in which the  
10 investigation does not disclose who abused or neglected the child, the investigation  
11 shall also include observation of or an interview with the child, or both, and, if  
12 possible, an interview with the child's parents, guardian, or legal custodian. If the  
13 investigation is of a report of child abuse or neglect or threatened child abuse or  
14 neglect by a caregiver who continues to reside in the same dwelling as the child, the  
15 investigation shall also include, if possible, a visit to that dwelling. At the initial visit  
16 to the child's dwelling, the person making the investigation shall identify himself or  
17 herself and the agency involved to the child's parents, guardian, or legal custodian.  
18 The agency may contact, observe, or interview the child at any location without  
19 permission from the child's parent, guardian, or legal custodian if necessary to  
20 determine if the child is in need of protection or services, except that the person  
21 making the investigation may enter a child's dwelling only with permission from the  
22 child's parent, guardian, or legal custodian or after obtaining a court order  
23 permitting the person to do so.

24 **SECTION 26.** 48.981 (3) (c) 4. of the statutes is amended to read:

## SENATE BILL 284

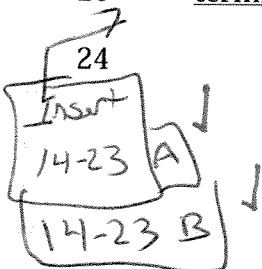
## SECTION 26

1           48.981 (3) (c) 4. The county department or, in a county having a population of  
2           500,000 or more, the department or a licensed child welfare agency under contract  
3           with the department shall determine, within 60 days after receipt of a report that the  
4           county department, department, or licensed child welfare agency investigates under  
5           subd. 1., whether abuse or neglect has occurred or is likely to occur. The  
6           determination shall be based on a preponderance of the evidence produced by the  
7           investigation. A determination that abuse or neglect has occurred may not be based  
8           solely on the fact that the child's parent, guardian, or legal custodian in good faith  
9           selects and relies on prayer or other religious means for treatment of disease or for  
10          remedial care of the child. In making a determination that emotional damage has  
11          occurred, the county department or, in a county having a population of 500,000 or  
12          more, the department or a licensed child welfare agency under contract with the  
13          department shall give due regard to the culture of the subjects. This subdivision does  
14          not prohibit a court from ordering medical services for the child if the child's health  
15          requires it.

16           SECTION 27. 938.02 (15) of the statutes is amended to read:

17           938.02 (15) "Relative" means a parent, ~~grandparent, greatgrandparent,~~  
18          stepparent, brother, sister, stepbrother, stepsister, half brother, half sister,  
19          brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, or  
20          aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the  
21          prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption,  
22          or the spouse of any person named in this subsection, even if the marriage is  
23          terminated by death or divorce.

24           SECTION 28. Effective date.



**SENATE BILL 284**

(1)(d) and

1 (1) CHILD ABUSE INVESTIGATIONS OF NONCAREGIVERS. The treatment of section  
2 48.981 (3) (a) 2d. and (3) (c) 1. and 4. of the statutes, the renumbering and  
3 amendment of section 48.981 (3) (a) 2. of the statutes, and the creation of section  
4 48.981 (3) (a) 2. a., b., c., and d. of the statutes take effect on the first day of the 6th  
5 month beginning after publication.

6

(END)

Insert A-1

**BILL**

- 1 relating to a foster, treatment foster, or family-operated group home parent;  
2 and the retention of records concerning children.

***Analysis by the Legislative Reference Bureau***

***Introduction***

This bill makes various changes relating to the provision of a child's juvenile court order and permanency plan to the child's foster parent or other physical custodian, the confidentiality of records relating to a foster, treatment foster, or family-operated group home parent, and the retention of records by the Department of Health and Family Services, the Department of Corrections, a county department of human services or social services (county department), or a licensed child welfare agency (collectively "agency").

(B+I) relative caregivers

***Provision of information to foster parent or other physical custodian***

Under current law, a permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability, must be prepared for a child who is living in a foster home, treatment foster home, group home, or residential care center for children and youth (RCC), whether under a voluntary agreement or an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code juvenile court, or in the home of a relative under an order of the juvenile court. Currently, certain information from a child's permanency plan must be provided to the child's foster parent, treatment foster parent, or operator of the group home or RCC in which the child is placed. That information includes information relating to any mental, emotional, cognitive, developmental, or behavioral disability of the child; any involvement of the child in a criminal gang; any involvement of the child in any activities that are harmful to the child's physical, mental, or moral well-being; any involvement of the child, whether as victim or perpetrator, in certain sex crimes; and the religious affiliation or belief of the child.

This bill requires a copy of a child's entire permanency plan to be provided to the child's foster parent or treatment foster parent, the operator of the group home or RCC in which the child is placed, or the relative with whom the child is placed, both at the time of placement and at least five days before a permanency plan review or a permanency plan hearing. The bill also requires a copy of a revised permanency plan that is made a part of a change-in-placement order, a revision of a dispositional order, or an extension of a dispositional order to be provided to the child's foster parent or treatment foster parent, the operator of the group home or RCC in which the child is placed, or the relative with whom the child is placed. In addition, the bill requires the juvenile court to provide a copy of a child's dispositional order to the child's foster parent or treatment foster parent, the operator of the group home or RCC in which the child is placed, or the relative with whom the child is placed.

and the results of any tests of the child for human immunodeficiency virus or viral hepatitis, type B, and any other medical information concerning the child that is necessary for the care of the child.

and certain medical information



Insert A-1

~~Not~~

912

This substitute amendment requires that information to  
also be provided to a relative in whose home a child  
is placed.

(red & insert)

Insert A-2

district attorney, corporation counsel, or other appropriate official designated by the county board to prosecute TPR proceedings is required to file a TPR petition with respect to the child or, if a TPR petition has already been filed with respect to the child, to join in the petition.

This bill, for purposes of determining whether a child has been placed outside the home for 15 of the most recent 22 months, excludes any period during which the child was placed in a placement the cost of which is not reimbursable under Title IV-E of the federal Social Security Act.

### **Status of relative following TPR**

Under current law, a TPR order permanently severs all legal rights and duties between the parent whose parental rights have been terminated and the child. A TPR order also results in the legal severance of the relationship between the child and the child's entire family. *State v. Margaret H.*, 234 Wis. 2d 606, 619 (2000).

This bill codifies that a TPR order permanently severs all legal rights and duties not only between the parent whose parental rights are terminated but also between all persons whose relationship to the child is derived through that parent except as follows:

1. The relationship between the child and his or her siblings is not severed until that relationship is extinguished by an order of adoption.
2. A relative whose relationship to the child is derived through the parent whose parental rights are terminated is considered to be a relative of the child for purposes of placement of, and permanency planning for, the child until that relationship is extinguished by an order of adoption.

### **Termination of juvenile court orders**

Under current law, a dispositional order, change-in-placement order, or extension of a dispositional order that places or continues the placement of a child in his or her home terminates at the end of one year after its entry, and a dispositional order, change-in-placement order, or extension of a dispositional order that places or continues the placement of a child outside the child's home terminates when the child reaches 18 years of age, at the end of one year after its entry, or, if the child is a full-time student and is reasonably expected to finish school before reaching 19 years of age, when the child reaches 19 years of age, whichever is later, unless the judge specifies a shorter period or terminates the order sooner. Under current law, an order is "entered" when it is filed in the office of the clerk of court and an order is "granted" when given orally in open court and on the record. This bill calculates the date on which a juvenile court order terminates by reference to the date on which the order is granted, rather than the date of its entry.

### **Modifications of dispositional orders**

Under current law, the juvenile court may revise or extend a dispositional order or order a change in placement for a child who is subject to a dispositional order. Currently, the procedures governing revisions, extensions, and changes in placement are set forth in separate sections of the Children's Code and the Juvenile Justice Code. This bill consolidates those procedures into one section of the Children's Code and the Juvenile Justice Code, changes the title of that section to "Modifications of dispositional orders," and eliminates certain subunits of the

Substitute  
Amendment

(ed + insert)

Insert 6-24

2003 - 2004 Legislature

- 14 -

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SECTION 14

**BILL**

1 child's court-appointed special advocate and, to the person representing the  
2 interests of the public, and to the foster parent or treatment foster parent of the child,  
3 the operator of the group home or residential care center for children and youth in  
4 which the child is placed, or the relative with whom the child is placed. A foster  
5 parent, treatment foster parent, operator of a group home or residential care center  
6 for children and youth, or relative to whom a copy of a permanency plan is furnished  
7 under this paragraph shall keep the information contained in the permanency plan  
8 confidential and may disclose that information only for the purposes of providing  
9 care for the child or participating in a court hearing or permanency plan review  
10 concerning the child.

11 **SECTION 15.** 48.371 (1) (intro.) of the statutes is amended to read:

12 48.371 (1) (intro.) If a child is placed in a foster home, treatment foster home,  
13 group home, or residential care center for children and youth or in the home of a  
14 relative other than a parent, including a placement under s. 48.205 or 48.21, the  
15 agency, as defined in s. 48.38 (1) (a), that placed the child or arranged for the  
16 placement of the child shall provide the following information to the foster parent,  
17 treatment foster parent, relative, or operator of the group home or residential care  
18 center for children and youth at the time of placement or, if the information has not  
19 been provided to the agency by that time, as soon as possible after the date on which  
20 the agency receives that information, but not more than 2 working days after that  
21 date:

22 **SECTION 16.** 48.371 (1) (a) of the statutes is amended to read:

23 48.371 (1) (a) Results of a test or a series of tests of the child to determine the  
24 presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of  
25 HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results

Int 6-24

**BILL**

1 included in a court report or permanency plan. At the time that the test results are  
2 provided, the agency shall notify the foster parent, treatment foster parent, relative,  
3 or operator of the group home or residential care center for children and youth of the  
4 confidentiality requirements under s. 252.15 (6).

5 **SECTION 17.** 48.371 (1) (b) of the statutes is amended to read:

6 48.371 (1) (b) Results of any tests of the child to determine the presence of viral  
7 hepatitis, type B, including results included in a court report or permanency plan.  
8 ~~The foster parent, treatment foster parent, or operator of a group home or residential~~  
9 ~~care center for children and youth receiving information under this paragraph shall~~  
10 ~~keep the information confidential.~~

11 **SECTION 18.** 48.371 (1) (c) of the statutes is amended to read:

12 48.371 (1) (c) Any other medical information concerning the child that is  
13 necessary for the care of the child. ~~The foster parent, treatment foster parent, or~~  
14 ~~operator of a group home or residential care center for children and youth receiving~~  
15 ~~information under this paragraph shall keep the information confidential.~~

16 **SECTION 19.** 48.371 (3) (intro.) of the statutes is amended to read:

17 48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment  
18 foster home, group home, or residential care center for children and youth or in the  
19 home of a relative other than a parent or, if the information is not available at that  
20 time, as soon as possible after the date on which the court report or permanency plan  
21 has been submitted, but no later than 7 days after that date, the agency, as defined  
22 in s. 48.38 (1) (a), responsible for preparing the child's permanency plan shall provide  
23 to the foster parent, treatment foster parent, relative, or operator of the group home  
24 or residential care center for children and youth a copy of the permanency plan  
25 submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), or

## BILL

625-6-24

(1) ~~48.831 (4) (e) and~~ information contained in the court report submitted under s. 48.33  
(1), 48.365 (2g), 48.425 (1), 48.831 (2), or 48.837 (4) (c) or permanency plan submitted  
under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c) or 48.831 (4) (e)  
relating to findings or opinions of the court or agency that prepared the court report  
or permanency plan relating to any of the following. (plan)

SECTION 20. 48.371 (3) (a) of the statutes is amended to read:

48.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral disability of the child. The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this subsection shall keep the information confidential.

SECTION 21. 48.371 (3) (b) of the statutes is amended to read:

48.371 (3) (b) Any involvement of the child in any criminal gang, as defined in s. 939.22 (9), or in any other group in which any child was traumatized as a result of his or her association with that group. The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.

SECTION 22. 48.371 (3) (c) of the statutes is amended to read:

48.371 (3) (c) Any involvement of the child in any activities that are harmful to the child's physical, mental, or moral well-being. The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.

SECTION 23. 48.371 (3) (d) of the statutes is amended to read:

48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, or 948.025,

**BILL**

prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055, if the information is necessary for the care of the child or for the protection of any person living in the foster home, treatment foster home, group home, or residential care center for children and youth. The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.

**SECTION 24.** 48.371 (4) of the statutes is created to read:

48.371 (4) Except as permitted under s. 252.15 (6), a foster parent, treatment foster parent, relative, or operator of a group home or residential care center for children and youth that receives any information under sub. (1) or (3), other than the information described in sub. (3) (e), shall keep the information confidential and may disclose that information only for the purposes of providing care for the child or participating in a court hearing or permanency plan review concerning the child.

**SECTION 25.** 48.38 (5) (d) of the statutes is amended to read:

48.38 (5) (d) Notwithstanding s. 48.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a the review by a review panel, provide to the court or each person appointed to the review panel, the child's parent, guardian, and legal custodian, the person representing the interests of the public, the child's counsel, the child's or guardian ad litem and, the child's court-appointed special advocate, and the child's foster parent, the child's treatment foster parent, the operator of the facility where the child is living, or the relative with whom the child is living a copy of the permanency plan and any written comments submitted under par. (b). Notwithstanding s. 48.78 (2) (a), the court, a person appointed to a review panel, the person representing the interests of the public, the child's counsel, the

(ced & msr)

Insert 9-2

1        **SECTION 159.** 48.43 (2) of the statutes is renumbered 48.43 (2) (intro.) and  
2 amended to read:

3        48.43 (2) (intro.) An order terminating parental rights permanently severs all  
4 legal rights and duties between the parent, whose parental rights are terminated  
5 and the child and between all persons whose relationship to the child is derived  
6 through that parent, except as follows: the child and

7        **SECTION 160.** 48.43 (2) (a) of the statutes is created to read:

8        48.43 (2) (a) The relationship between the child and his or her siblings is not  
9 severed until that relationship is extinguished by an order of adoption as provided  
10 in s. 48.92 (2).

11        **SECTION 161.** 48.43 (2) (b) of the statutes is created to read:

12        48.43 (2) (b) A relative whose relationship to the child is derived through the  
13 parent whose parental rights are terminated is considered to be a relative of the child  
14 for purposes of placement of, and permanency planning for, the child until that  
15 relationship is extinguished by an order of adoption as provided in s. 48.92 (2).

16        **SECTION 162.** 48.43 (5) (b) of the statutes is amended to read:

17        48.43 (5) (b) The court shall hold a hearing to review the permanency plan  
18 within 30 days after receiving a report under par. (a). At least 10 days before the date  
19 of the hearing, the court shall provide notice of the time, date, and purpose of the  
20 hearing to the agency that prepared the report, the child's guardian, the child, if he  
21 or she is 12 years of age or over, and the child's foster parent, treatment foster parent,  
22 other physical custodian described in s. 48.62 (2) or the operator of the facility  
23 out-of-home placement in which the child is living.

24        **SECTION 163.** 48.43 (5m) of the statutes is amended to read:

(end of insert)

Insert 10-18

CGT B

Section #. 48.65 (2) (a) of the statutes is amended to read:

48.65 (2) (a) A ~~relative or~~ guardian of a child who provides care and supervision for the child.

History: 1983 a. 193; 1985 a. 29; 1987 a. 399; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2005 a. 25.

parent, grandparent, great<sup>d</sup>grandparent, stepparent, brother,  
sister, first cousin, nephew, niece, <sup>or</sup> uncle, ~~or~~ aunt ~~or~~

~~of a child who provides care and supervision for  
the child.~~

~~§ (am) A~~

of a child, whether by blood, marriage, or legal  
adoption, who provides care and supervision  
for the child.

§ (am) A

(ed & mat)



Insert 10-22

1 ~~SECTION 222.~~ 48.78 (2) (a) of the statutes is amended to read:

2 48.78 (2) (a) No agency may make available for inspection or disclose the  
3 contents of any record kept or information received about an individual in its care  
4 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),  
5 48.432, 48.433, 48.93, 48.981 (7), 938.51, or 938.78 or by order of the court.

6 ~~SECTION 223.~~ 48.92 (2) of the statutes is amended to read:

7 48.92 (2) After the order of adoption is entered the relationship of parent and  
8 child between the adopted person and the adopted person's birth parents, ~~unless the~~  
9 birth parent is the spouse of the adoptive parent, and the relationship between the  
10 adopted person and all persons whose relationship to the adopted person is derived  
11 through those birth parents shall be completely altered and all the rights, duties, and  
12 other legal consequences of the relationship those relationships shall cease to exist,  
13 unless the birth parent is the spouse of the adoptive parent, in which case those  
14 relationships shall be completely altered and those rights, duties, and other legal  
15 consequences shall cease to exist only with respect to the birth parent who is not the  
16 spouse of the adoptive parent and all persons whose relationship to the adopted  
17 person is derived through that birth parent. Notwithstanding the extinction of all  
18 parental rights under this subsection, a court may order reasonable visitation under  
19 s. 48.925.

20 ~~SECTION 224.~~ 48.977 (2) (a) of the statutes is amended to read:

21 48.977 (2) (a) That the child has been adjudged to be in need of protection or  
22 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or  
23 938.13 (4) and been placed, or continued in a placement, outside of his or her home  
24 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,  
25 938.345, or 938.357 or under s. 48.363, 2001 stats., s. 48.365, 2001 stats., s. 938.363,

(Cease to exist)

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Insert 10-25

Section #. 48.981 (1) (d) of the statutes is amended to read:

48.981 (1) (d) "Neglect" means failure, refusal or inability on the part of a ~~parent, guardian, legal custodian or other person exercising temporary or permanent control over a child~~, <sup>Caregiver</sup> for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321.

(ed & insert)

Insert 14-23 A

**BILL**

1 ~~that information only for the purposes of providing care for the juvenile or~~  
2 ~~participating in a court hearing or permanency plan review concerning the juvenile.~~

3 **SECTION 175.** 938.355 (2e) (c) of the statutes is amended to read:

4 938.355 (2e) (c) Either the court or the agency that prepared the permanency  
5 plan shall furnish a copy of the original plan and each revised plan to the juvenile's  
6 parent or guardian, to the juvenile or the juvenile's counsel or guardian ad litem and,  
7 to the person representing the interests of the public, ~~and to the foster parent or~~  
8 ~~treatment foster parent of the juvenile, the operator of the group home or residential~~  
9 ~~care center for children and youth in which the juvenile is placed, or the relative with~~  
10 ~~whom the juvenile is placed. A foster parent, treatment foster parent, operator of a~~  
11 ~~group home or residential care center for children and youth, or relative to whom a~~  
12 ~~copy of a permanency plan is furnished under this paragraph shall keep the~~  
13 ~~information contained in the permanency plan confidential and may disclose that~~  
14 ~~information only for the purposes of providing care for the juvenile or participating~~  
15 ~~in a court hearing or permanency plan review concerning the juvenile.~~

16 **SECTION 176.** 938.355 (4m) (b) of the statutes, as created by 2003 Wisconsin Act  
17 50, is amended to read:

18 938.355 (4m) (b) The court shall expunge the court's record of a juvenile's  
19 adjudication if it was the juvenile's first adjudication based on a violation of s. 942.08  
20 (2) (b), (c), or (d), and if the court determines that the juvenile has satisfactorily  
21 complied with the conditions of his or her dispositional order. Notwithstanding s.  
22 938.396 (2) (a) 938.788 (1), the court shall notify the department promptly of any  
23 expungement under this paragraph.

24 **SECTION 177.** 938.371 (1) (intro.) of the statutes is amended to read:

Insert 14-234

**BILL**

**SECTION 177**

1 938.371 (1) (intro.) If a juvenile is placed in a foster home, treatment foster  
2 home, group home, residential care center for children and youth, or secured  
3 correctional facility, or in the home of a relative other than a parent, including a  
4 placement under s. 938.205 or 938.21, the agency, as defined in s. 938.38 (1) (a), that  
5 placed the juvenile or arranged for the placement of the juvenile shall provide the  
6 following information to the foster parent, treatment foster parent, relative, or  
7 operator of the group home, residential care center for children and youth, or secured  
8 correctional facility at the time of placement or, if the information has not been  
9 provided to the agency by that time, as soon as possible after the date on which the  
10 agency receives that information, but not more than 2 working days after that date:

11 **SECTION 178.** 938.371 (1) (a) of the statutes is amended to read:

12 938.371 (1) (a) Results of a test or a series of tests of the juvenile to determine  
13 the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products  
14 of HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results  
15 included in a court report or permanency plan. At the time that the test results are  
16 provided, the agency shall notify the foster parent, treatment foster parent, relative,  
17 or operator of the group home, residential care center for children and youth, or  
18 secured correctional facility of the confidentiality requirements under s. 252.15 (6).

19 **SECTION 179.** 938.371 (1) (b) of the statutes is amended to read:

20 938.371 (1) (b) Results of any tests of the juvenile to determine the presence  
21 of viral hepatitis, type B, including results included in a court report or permanency  
22 plan. ~~The foster parent, treatment foster parent, or operator of a group home,~~  
23 ~~residential care center for children and youth, or secured correctional facility~~  
24 ~~receiving information under this paragraph shall keep the information confidential.~~

25 **SECTION 180.** 938.371 (1) (c) of the statutes is amended to read:

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**BILL**

1 938.371 (1) (c) Any other medical information concerning the juvenile that is  
2 necessary for the care of the juvenile. The foster parent, treatment foster parent, or  
3 operator of a group home, residential care center for children and youth, or secured  
4 correctional facility receiving information under this paragraph shall keep the  
5 information confidential.

6 **SECTION 181.** 938.371 (3) (intro.) of the statutes is amended to read:

7 938.371 (3) (intro.) At the time of placement of a juvenile in a foster home,  
8 treatment foster home, group home, residential care center for children and youth,  
9 or secured correctional facility or in the home of a relative other than a parent or, if  
10 the information is not available at that time, as soon as possible after the date on  
11 which the court report or permanency plan has been submitted, but no later than 7  
12 days after that date, the agency, as defined in s. 938.38 (1) (a), responsible for  
13 preparing the juvenile's court report or permanency plan shall provide to the foster  
14 parent, treatment foster parent, relative, or operator of the group home, residential  
15 care center for children and youth, or secured correctional facility a copy of the  
16 permanency plan submitted under s. 938.355 (2e) or 938.38 and information (plan)  
17 contained in the court report submitted under s. 938.33 (1) or 938.365 (2g) or  
18 permanency plan submitted under s. 938.355 (2e) or 938.38 relating to findings or  
19 opinions of the court or agency that prepared the court report or permanency plan (plan)  
20 relating to any of the following: (plan)

21 **SECTION 182.** 938.371 (3) (a) of the statutes is amended to read:

22 938.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral  
23 disability of the juvenile. The foster parent, treatment foster parent, or operator of  
24 a group home, residential care center for children and youth, or secured correctional

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**BILL**

**SECTION 182**

1 facility receiving information under this subsection shall keep the information  
2 confidential.

3 **SECTION 183.** 938.371 (3) (b) of the statutes is amended to read:

4 938.371 (3) (b) Any involvement of the juvenile in any criminal gang, as defined  
5 in s. 939.22 (9), or in any other group in which any child was traumatized as a result  
6 of his or her association with that group. The foster parent, treatment foster parent,  
7 or operator of a group home, residential care center for children and youth, or secured  
8 correctional facility receiving information under this paragraph shall keep the  
9 information confidential.

10 **SECTION 184.** 938.371 (3) (c) of the statutes is amended to read:

11 938.371 (3) (c) Any involvement of the juvenile in any activities that are  
12 harmful to the juvenile's physical, mental, or moral well-being. The foster parent,  
13 treatment foster parent, or operator of a group home, residential care center for  
14 children and youth, or secured correctional facility receiving information under this  
15 paragraph shall keep the information confidential.

16 **SECTION 185.** 938.371 (3) (d) of the statutes is amended to read:

17 938.371 (3) (d) Any involvement of the juvenile, whether as victim or  
18 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,  
19 or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in  
20 violation of s. 948.05, or causing a child to view or listen to sexual activity in violation  
21 of s. 948.055, if the information is necessary for the care of the juvenile or for the  
22 protection of any person living in the foster home, treatment foster home, group  
23 home, residential care center for children and youth, or secured correctional facility.

24 The foster parent, treatment foster parent, or operator of a group home, residential

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1 care center for children and youth, or secured correctional facility receiving  
2 information under this paragraph shall keep the information confidential.

3 **SECTION 186.** 938.371 (4) of the statutes is created to read:

4 938.371 (4) Except as permitted under s. 252.15 (6), a foster parent, treatment  
5 foster parent, relative, or operator of a group home, residential care center for  
6 children and youth, or secured correctional facility that receives any information  
7 under sub. (1) or (3), other than the information described in sub. (3) (e), shall keep  
8 the information confidential and may disclose that information only for the purposes  
9 of providing care for the juvenile or participating in a court hearing or permanency  
10 plan review concerning the juvenile.

11 ~~**SECTION 187.** 938.38 (5) (d) of the statutes is amended to read:~~

12 938.38 (5) (d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the  
13 permanency plan shall, at least 5 days before a the review by a review panel, provide  
14 to each person appointed to the review panel, the juvenile's parent, guardian, and  
15 legal custodian, the person representing the interests of the public, the juvenile's  
16 counsel and the juvenile's or guardian ad litem, and the juvenile's foster parent, the  
17 juvenile's treatment foster parent, the operator of the facility where the juvenile is  
18 living, or the relative with whom the juvenile is living a copy of the permanency plan  
19 and any written comments submitted under par. (b). Notwithstanding s. 938.78 (2)  
20 (a), the court, a person appointed to a review panel, the person representing the  
21 interests of the public, the juvenile's counsel and, the juvenile's guardian ad litem,  
22 and the juvenile's foster parent, the juvenile's treatment foster parent, the operator  
23 of the facility where the juvenile is living, or the relative with whom the juvenile is  
24 living may have access to any other records concerning the juvenile for the purpose  
25 of participating in the review. A person permitted access to a juvenile's records under



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938.788 (2) (c) (title) *Criminal gang activity investigation.*

SECTION 259. 938.788 (2) (dm) (title) of the statutes is created to read:

938.788 (2) (dm) (title) *Delinquency or criminal defense.*

SECTION 260. 938.788 (2) (dr) (title) of the statutes is created to read:

938.788 (2) (dr) (title) *Presentence investigation.*

SECTION 261. 938.788 (2) (e) (title) of the statutes is created to read:

938.788 (2) (e) (title) *Sexually violent person commitment.*

SECTION 262. 938.788 (2) (fm) (title) of the statutes is created to read:

938.788 (2) (fm) (title) *Victim's insurer.*

SECTION 263. 938.788 (2) (gm) (title) of the statutes is created to read:

938.788 (2) (gm) (title) *Other courts.*

SECTION 264. 938.788 (2) (h) (title) of the statutes is created to read:

938.788 (2) (h) (title) *Custody of child.*

SECTION 265. 938.788 (2) (m) (title) of the statutes is created to read:

938.788 (2) (m) (title) *Notification of juvenile's school.*

SECTION 266. 938.788 (3) (title) of the statutes is created to read:

938.788 (3) (title) *MOTOR VEHICLE VIOLATION RECORDS.*

SECTION 267. 938.788 (4) (title) of the statutes is created to read:

938.788 (4) (title) *OPERATING PRIVILEGE RECORDS.*

SECTION 268. **Nonstatutory provisions.**

(1) PROVISION OF COURT ORDERS AND PERMANENCY PLANS TO CHILD'S PHYSICAL

CUSTODIAN. *INFORMATION TO RELATIVE CAREGIVERS*

(a) *Court orders.* Notwithstanding sections 48.355 (2) (d) and 938.355 (2) (d) of the statutes, as affected by this act, in the case of a child or juvenile who is living in a foster home, treatment foster home, group home, or residential care center for



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SECTION 268

children and youth or in the home of a relative other than a parent under a dispositional order of the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes on the day before the effective date of this paragraph, that court shall provide a copy of the dispositional order to the foster parent or treatment foster parent of the child or juvenile, the operator of the group home or residential care center for children and youth in which the child or juvenile is placed, or the relative with whom the child or juvenile is placed no later than 60 days after the effective date of this paragraph, unless a dispositional order is provided to that person under section 48.355 (2) (d) or 938.355 (2) (d) of the statutes, as affected by this act, within that time period.

(1) (intro.) and

~~(b) Permanency plans.~~ Notwithstanding sections ~~48.355 (2) (c), 48.371 (3)~~

~~(intro.), 48.38 (5) (d) and (5m) (d), 48.43 (5m), 48.63 (4) and (5) (c), 938.355 (2) (c),~~ and

~~(1) (intro.) and 938.371 (3) (intro.) and 938.38 (5) (d) and (5m) (d)~~ of the statutes, as affected by this

act, in the case of a child or juvenile who is living in a foster home, treatment foster

home, group home, or residential care center for children and youth or in the home

of a relative other than a parent on the day before the effective date of this paragraph

and for whom a permanency plan has been prepared, the agency assigned primary

responsibility for providing services for the child or juvenile shall provide a copy of

the permanency plan to the foster parent or treatment foster parent of the child or

juvenile, the operator of the group home or residential care center for children and

youth in which the child or juvenile is placed, or the relative with whom the child or

juvenile is placed no later than 60 days after the effective date of this paragraph

unless a permanency plan is provided to that person under section 48.355 (2e) (e),

48.371 (3) (intro.), 48.38 (5) (d) and (5m) (d), 48.43 (5m), 48.63 (4) and (5) (c), 938.355

Subsection

The information specified in section 48.371 (1) (a) to (c) and (3) (a) to (e) of the or 938.371 (1) (a) to (c) and (3) (a) to (e) of the statutes as affected by this act, to

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Subsection

1 ~~(2e) (c), 938.371 (3) (intro.), or 938.38 (5) (d) and (5m) (d) of the statutes, as affected~~  
2 ~~by this act, within that time period.~~

3 **SECTION 269. Initial applicability.**

4 (1) DISPOSITIONAL ORDERS. The treatment of sections 48.355 (2) (d) and 938.355  
5 (2) (d) of the statutes first applies to a dispositional order granted on the effective  
6 date of this subsection.

7 (2) ORIGINAL AND REVISED PERMANENCY PLANS. The treatment of sections 48.355  
8 (2e) (c), 48.43 (5m), and 938.355 (2e) (c) of the statutes first applies to an original  
9 permanency plan or a revised permanency plan that is filed with the court assigned  
10 to exercise jurisdiction under chapters 48 and 938 of the statutes on the effective date  
11 of this subsection.

(3) RELATIVE CAREGIVERS

12 (1) (3) CHILDREN PLACED WITH SUBSTITUTE CARE PROVIDERS. The treatment of sections  
13 48.371 (1) (intro.) and (3) (intro.), 48.63 (4) and (5) (c), and 938.371 (1) (intro.) and  
14 (3) (intro.) of the statutes first applies to a child or juvenile who is placed in a foster  
15 home, treatment foster home, group home, residential care center for children and  
16 youth, or secured correctional facility or in the home of a relative other than a parent  
17 on the effective date of this subsection.

18 (4) PERMANENCY PLAN REVIEWS AND HEARINGS. The treatment of sections 48.38  
19 (5) (d) and (5m) (d) and 938.38 (5) (d) and (5m) (d) of the statutes first applies to a  
20 permanency plan review or a permanency plan hearing held on the 5th day after the  
21 effective date of this subsection.

(END)

(End of insert)

WIT App

Not B

exercise of authority under this subsection unless the department provides for a hearing by rule.

**SECTION 476.** 938.538 (5) (c) of the statutes is amended to read:

938.538 (5) (c) Sections Section 938.357 and 938.363 ~~do~~ does not apply to changes of placement and revisions of orders for a juvenile who is a participant in the serious juvenile offender program, except that s. 938.357 (4) (d) applies to the transfer of a participant to the Racine youthful offender correctional facility named in s. 302.01.

**SECTION 477.** 938.57 (3) (a) 4. of the statutes is amended to read:

938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home, or residential care center for children and youth an out-of-home placement.

**SECTION 478.** 938.78 (2) (a) of the statutes is amended to read:

938.78 (2) (a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual in its care or legal custody, except as provided under sub. (3) or s. 938.371, ~~938.38 (5) (b) or (d)~~ or (5m) (d), ~~or 938.51 or by order of the court.~~

**SECTION 479. Initial applicability.**

**(2) (b) STATUS OF RELATIVES FOLLOWING TERMINATION OF PARENTAL RIGHTS AND ADOPTION.**

(a) *Status of relatives following termination of parental rights.* The renumbering and amendment of section 48.43 (2) of the statutes, the creation of section 48.43 (2) (a) and (b) of the statutes, and the treatment of section 48.92 (2) of the statutes first applies to an order terminating parental rights granted on the effective date of this paragraph.

1 (b) *Status of relatives following adoption.* The treatment of section 48.92 (2)  
2 of the statutes first applies to an order of adoption granted on the effective date of  
3 this paragraph.

4 (2) PERMANENCY PLAN REVIEWS AND HEARINGS.

5 (a) *Notices.* The treatment of sections 48.38 (5) (b) and (bm) and (5m) (b) and  
6 938.38 (5) (b) and (bm) and (5m) (b) of the statutes first applies to permanency plan  
7 reviews and hearings for which notice is provided on the effective date of this  
8 paragraph.

9 (b) *Reviews and hearings.* The treatment of sections 48.356 (1), 48.38 (5) (c) 6.  
10 (intro.) and 7., (e), and (f) and (5m) (e) and (f), 938.356 (1), and 938.38 (5) (c) 6. (intro.)  
11 and 7., (e), and (f) and (5m) (e) and (f) of the statutes first applies to permanency plan  
12 reviews and hearings held on the effective date of this paragraph.

13 (3) PROTECTIVE PLACEMENTS.

14 (a) *Petitions.* The treatment of section 55.06 (3) (a), (8) (c), and (9) (am) of the  
15 statutes first applies to petitions requesting the protective placement of a minor filed  
16 on the effective date of this paragraph.

17 (b) *Emergency protective placements.* The treatment of section 55.06 (11) (cm)  
18 of the statutes first applies to minors taken into custody under section 55.06 (11) (a)  
19 of the statutes on the effective date of this paragraph.

20 (c) *Temporary protective placements.* The treatment of section 55.06 (12) of the  
21 statutes first applies to applications for temporary protective placement of a minor  
22 filed on the effective date of this paragraph.

23 (4) JUVENILE COURT REPORTS. The treatment of sections 48.33 (4) (c), 48.365 (2g)  
24 (b) 2. and 3., 48.425 (1) (c), 938.33 (4) (c), and 938.365 (2g) (b) 2. and 3. of the statutes

## **Malaise, Gordon**

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**From:** Connolly, Cathleen  
**Sent:** Tuesday, September 13, 2005 11:35 AM  
**To:** Stegall, Jennifer; Malaise, Gordon  
**Cc:** Campbell, Mark; Jones, Jennifer; Mitchell, Mark; Hermes, Ron; Hergert, David  
**Subject:** Re: Amendment to SB 284

Hi Jennifer and Gordon,

I and Mark Mitchell reviewed the bill and the only request we have is in the sharing information with relatives sections. Currently the statute talks about sharing the information when "if a child is placed in" and "at the time of placement". Rule HFS 37, via s. 895.485 Stats., basically creates a form that contains the information in 48.371 and says it should be provided to a foster child's "prospective or actual" foster parent etc.

We want to capture the prospective part in 48.371., because that allows the social worker to provide some information to foster parents etc, and relatives when they are discussing whether to accept placement of the child. We think that is best practice for child protection and is in fact what goes on in most cases.

Could we add language that, prior to placement and for the purpose of deciding on the appropriateness of a potential placement, that information could be shared with potential .....?

Cathy

>>> "Stegall, Jennifer" <Jennifer.Stegall@legis.state.wi.us> 09/12/05  
05:15PM  
>>>

Hi...please disregard my other attempts to forward you a copy of the SB 284 amendment. The scanner and the computer are not working together very well. This copy should be much better. Thanks for your patience!!